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**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

JANET GARCIA, GLADYS  
ZEPEDA, MIRIAM ZAMORA, ALI  
EL-BEY, PETER DIOCSO JR.,  
MARQUIS ASHLEY, JAMES  
HAUGABROOK, individuals,  
KTOWN FOR ALL, an  
unincorporated association;  
ASSOCIATION FOR  
RESPONSIBLE AND EQUITABLE  
PUBLIC SPENDING, an  
unincorporated association,

Plaintiffs,

v.

CITY OF LOS ANGELES, a  
municipal entity; DOES 1-7,

Defendants.

CASE NO. 2:19-cv-06182-DSF-PLA

[Assigned to Judge Dale S. Fischer]

**PLAINTIFFS' OPPOSITION  
TO DEFENDANT CITY OF  
LOS ANGELES' MOTION TO  
DISMISS SUPPLEMENTAL  
COMPLAINT TO THE FIRST  
AMENDED COMPLAINT  
(FED. R. CIV. PROC. 12(b)(1))**

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## I. INTRODUCTION

Organizational plaintiffs Ktown for All and Association for Responsible and Equitable Public Spending (“AREPS”) have standing to challenge the City of Los Angeles’s (“the City” or “Defendant”) unconstitutional seizure and destruction of the personal property of unhoused people pursuant to Los Angeles Municipal Code 56.11 (“LAMC 56.11”). Both Ktown for All and AREPS are seeking injunctive and declaratory relief that would enjoin this unconstitutional ordinance from being enforced unlawfully and would prevent the City from continuing to unlawfully seize and destroy people’s belongings.

Plaintiff Ktown for All has both associational standing on behalf of its unhoused members who have been harmed by the unlawful practices of the City and organizational standing on the basis of its own frustration of mission and diversion of resources. Members of Ktown for All have lost property and have been forced to relocate by repeated seizure and destruction of their property pursuant to LAMC 56.11, as alleged in the complaint. Supplemental Complaint (“Supp. Complaint”) at Dkt. 20, ¶¶ 38-43. The practices have frustrated Ktown for All’s mission by making it difficult to stay in contact with unhoused neighbors and members, and by making it more difficult for unhoused members to participate in advocacy efforts. *Id.* ¶¶ 40-43. Ktown for All has been forced to divert its resources from advocacy to identifying and counteracting the City’s practices, *id.* ¶¶ 41, and has had to dramatically increase its fundraising efforts to meet the increased demand for tents, blankets, and other items that have been seized and destroyed by the City. *Id.*

Plaintiff AREPS asserts associational standing on behalf of its member municipal taxpayers, who are harmed when municipal funds are spent on enforcing 56.11. Plaintiff AREPS’s allegations are even more detailed than the law requires, as AREPS has alleged specific dollar amounts that Defendant spends on enforcement of LAMC 56.11. *Id.* ¶ 86. The injury of unlawful expenditures of municipal taxpayer

1 funds is sufficient for standing. *We Are Am. v. Maricopa Cty. Bd. of Supervisors*, 809  
 2 F. Supp. 2d 1084, 1096 (D. Ariz. 2011).

## 3 **II. RELEVANT FACTUAL BACKGROUND**

### 4 **a. LAMC 56.11**

5 LAMC 56.11 allows the City to seize, and in many instances, summarily  
 6 destroy property that is in public in violation of the ordinance. The current version of  
 7 LAMC 56.11 has been in place since 2016.

8 In 2012, the Ninth Circuit upheld an injunction against the City of Los Angeles  
 9 prohibiting the City from seizing and immediately destroying unhoused residents'  
 10 belongings unless the seizure and destruction was done so in a way that protected  
 11 unhoused residents' constitutional rights. *Lavan v. City of Los Angeles*, 693 F.3d  
 12 1022, 1030, 1032 (9th Cir. 2011). The Ninth Circuit agreed with the district court that  
 13 the City's practice of seizing and destroying property violated the Fourth and  
 14 Fourteenth Amendments, and that "the City's practice of on-the-spot destruction of  
 15 seized property . . . presents an enormous risk of erroneous deprivation." *Id.* at 1032  
 16 (quotation marks omitted). The Ninth Circuit ultimately declined to "create an  
 17 exception to the requirements of due process for the belongings of homeless persons."  
 18 *Id.* at 1033.

19 In 2016, after settling *Lavan*, the City adopted an amendment to LAMC 56.11,  
 20 the ordinance at issue in *Lavan*. With varying degrees of notice, the ordinance  
 21 purports to allow the City to seize, and in many instances, immediately destroy  
 22 property placed or left in public in violation of the ordinance. *See* Supp. Complaint at  
 23 Dkt. 20 ¶¶ 20, 58. "Despite the explicit judicial condemnation of the City's view of  
 24 homeless people's property rights and the long history of lawsuits that preceded it, the  
 25 City has remained steadfast in its position that unhoused people do not enjoy the same  
 26 constitutionally-protected property interest in their belongings that housed residents  
 27 enjoy." *Id.* ¶ 19. LAMC 56.11 codifies the City's most recent effort to unlawfully  
 28 seize and, in many instances, destroy, homeless people's property. *Id.* ¶¶ 115-16.



1 Unlike prior versions of the ordinance, LAMC 56.11 does not provide for jail  
 2 time or monetary fines if a person places or leaves property in public places in  
 3 violation of the ordinance. Instead, the ordinance allows the City to simply seize, and  
 4 in many instances, summarily destroy those items. Specifically, the current ordinance  
 5 allows the City to seize (1) property that it deems “excess” (i.e., more than will  
 6 cumulatively fit within a 60 gallon container with the lid closed); (2) tents that are  
 7 constructed between the hours of 6:00 a.m. and 9:00 p.m.; (3) property that is  
 8 blocking city sidewalks; (4) property within 10 feet of operational doorways; (5)  
 9 property that is attached to any public fixture or any private fixture where it interferes  
 10 with a public right of way; or (6) property that is interfering with city services. *Id.* ¶  
 11 59. If property is seized pursuant to any of these provisions, the items are stored for 90  
 12 days, and the City is required to leave post-deprivation notice and an opportunity for  
 13 an individual to reclaim his or her belongings.

14 In addition, three provisions of LAMC 56.11 allow the City to immediately  
 15 destroy items that it seizes. The City is able to seize and immediately destroy any item  
 16 it deems (1) “bulky”, which includes anything other than a constructed tent, an  
 17 operational bicycle, operational walker, crutch or wheelchair, that is too large to fit  
 18 into a 60-gallon container; (2) an “immediate threat to the health and safety of the  
 19 public, or 3) evidence of a crime or contraband. *Id.* ¶ 60.

20 **b. Enforcement of LAMC 56.11**

21 The City has and continues to enforce LAMC 56.11 throughout Los Angeles by  
 22 deploying teams of sanitation workers and LAPD officers. These teams conduct two  
 23 types of enforcement actions: noticed cleanups and rapid responses. *Id.* Noticed  
 24 cleanups are either noticed in advance or, in the case of Skid Row and Venice, are  
 25 conducted on a regular schedule. *Id.* A rapid response is neither noticed nor scheduled.  
 26 *Id.* In both types of enforcement actions, City workers routinely enforce the ordinance  
 27 by seizing and destroying homeless people’s belongings, consistent with LAMC  
 28 56.11. *Id.* ¶¶ 68-69. Noticed cleanups began as “Operation Healthy Streets” in Venice

1 and Skidrow and were then expanded City-wide as part of the Mayor’s “Clean Streets  
2 LA” program in 2015. *Id.* ¶ 70. In October 2019, the cleanups were rebranded CARE+  
3 cleanups. *Id.* ¶¶ 87-90.

4 In addition to noticed cleanups, the City deploys specialized teams initially  
5 called “Homeless Outreach and Proactive Engagement” teams, or HOPE teams, and  
6 now called CARE Teams, which conduct rapid responses. The primary purpose of  
7 these actions is to enforce the provisions of LAMC 56.11. *Id.* ¶ 81. To enforce LAMC  
8 56.11, LAPD and sanitation workers simply arrive at any time and seize and destroy  
9 people’s belongings pursuant to LAMC 56.11’s bulky items and excess property  
10 provisions. *Id.*

11 The City expends significant tax dollars to enforce LAMC 56.11. In the 2018-  
12 2019 fiscal year alone, “the City of Los Angeles spent approximately \$10,692,104 to  
13 fund rapid responses, including \$4.7 million to pay for the LAPD officers assigned to  
14 the HOPE teams and \$5.22 million to fund LA Sanitation.” *Id.* ¶ 86. “The approved  
15 budget for FY 2019-20, which began on July 1, 2019, includes the same allocation for  
16 LAPD and a \$5.98 million allocation for LA Sanitation to continue the rapid  
17 responses.” *Id.* In addition, the FY 2019-20 budget allocates over \$18 million to  
18 conduct noticed cleanups through Clean Streets LA and Operation Healthy Streets. *Id.*

19 On July 3, 2019, the City Council approved a plan to increase funding for the  
20 new CARE and CARE+ deployment plan, which came with increased funding and  
21 capacity. *Id.* ¶¶ 87-89. The plan calls for 47 additional sanitation workers, paid for  
22 with an additional \$6.45 million in funding, which is in addition to the \$32 million  
23 already allocated to these programs in the FY 2019-20 budget. *Id.* ¶ 87. With this new  
24 funding, the number of CARE teams has increased from nine HOPE teams operating  
25 in FY 2018-19 to 17 CARE teams funded under the new plan. *Id.* ¶ 88. For  
26 comprehensive cleanups, the number of teams deployed has been increased from 11 to  
27 13. *Id.*

1           **c.       Organizational Plaintiffs**

2           **i.       Ktown for All**

3           Founded in 2018, Ktown for All is a membership organization in the  
4           Koreatown neighborhood in Los Angeles, comprised of members who are both  
5           housed and unhoused. *Id.* ¶ 39. Ktown for All’s mission is to advocate for the creation  
6           of housing and shelters in its community and to form connections between housed and  
7           unhoused neighbors in Koreatown. *Id.* ¶ 38. Ktown for All seeks to organize unhoused  
8           residents for advocacy efforts. *Id.* ¶ 40.

9           The City’s enforcement of LAMC 56.11 has had a significant impact on Ktown  
10          for All. Because the City regularly seizes and destroys unhoused residents’  
11          belongings, unhoused residents “have been moved around or been displaced from the  
12          neighborhood. This has made it incredibly difficult for Ktown for All to stay in  
13          contact with unhoused neighbors,” which has frustrated its mission of outreach and  
14          building connections with its neighbors. *Id.* ¶ 40. The City’s enforcement of LAMC  
15          56.11 has forced Ktown for All to “devote significant resources that it could have  
16          spent on advocating for shelters and connecting with neighbors, [and] on identifying  
17          and counteracting the City’s practices.” *Id.* ¶ 41. Ktown for All has spent hours  
18          helping unhoused residents track down seized property and responding to calls related  
19          to sweeps. *Id.* It has also had to use its scarce financial resources to replace tents,  
20          blankets, and other items that were destroyed by the City. *Id.* Instead of advocating for  
21          the production of affordable housing, Ktown for All has also diverted its resources to  
22          educate its members about the City’s unlawful enforcement of LAMC 56.11 and to  
23          advocate for the City to stop these unlawful practices. *Id.*

24          In addition to the impact on Ktown for All as an organization, LAMC 56.11 and  
25          the City’s enforcement of the unconstitutional ordinance has impacted Ktown for  
26          All’s members, who have suffered harm as a result of the City’s enforcement of  
27          LAMC 56.11. *Id.* ¶ 42. Unhoused members of the organization have lost property and  
28          have been deprived of their constitutional and statutory rights. Because the City

1 regularly enforces LAMC 56.11, unhoused members of Ktown for All are at imminent  
2 risk of having their property unlawfully seized by the City. *Id.*

### 3 **ii. Plaintiff Association for Responsible Public Spending**

4 Plaintiff AREPS is a membership organization comprised of taxpayers in Los  
5 Angeles that was founded to ensure that their tax dollars are used to promote  
6 responsible public spending. *Id.* ¶ 44. AREPS advocates for “spending on public  
7 health, housing, and other public infrastructure for all residents of Los Angeles,  
8 including its unhoused residents and against the use of their tax dollars to enforce  
9 illegal laws that harm vulnerable residents of the City.” *Id.*

10 Kristina Meshelski and James Parriott, IV are members of AREPS and both  
11 currently reside in the City of Los Angeles. *Id.* ¶¶ 45-46. Ms. Meshelski and Mr.  
12 Parriott both pay municipal taxes into the general fund of the City of Los Angeles. *Id.*

### 13 **III. LEGAL STANDARD**

14 “A complaint should not be dismissed unless it appears beyond doubt that the  
15 plaintiff can prove no set of facts in support of the claim that would entitle it to relief.”  
16 *Daniel v. Cty. of Santa Barbara*, 288 F.3d 375, 380 (9th Cir. 2002) (quoting  
17 *Williamson v. Gen. Dynamics Corp.*, 208 F.3d 1144, 1149 (9th Cir. 2000)). At the  
18 pleading stage, “general allegations embrace the specific facts that are necessary to  
19 support the claim.” *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 561 (1992) (internal  
20 citation omitted).

21 A motion to dismiss for lack of subject matter jurisdiction is either facial or  
22 factual. *See Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004). “In  
23 a facial attack, the challenger asserts that the allegations contained in a complaint are  
24 insufficient on their face to invoke federal jurisdiction.” *Id.* “The district court  
25 resolves a facial attack as it would a motion to dismiss under Rule 12(b)(6): Accepting  
26 the plaintiff’s allegations as true and drawing all reasonable inferences in the plaintiff’s  
27 favor, the court determines whether the allegations are sufficient as a legal matter to  
28

1 invoke the court's jurisdiction.” *Leite v. Crane Co.*, 749 F.3d 1117, 1121 (9th Cir.  
2 2014) (citing *Pride v. Correa*, 719 F.3d 1130, 1133 (9th Cir. 2013)).

### 3 **IV. ARGUMENT**

#### 4 **a. Ktown for All Has Standing to Challenge the Unlawful Practices and** 5 **Unlawful Ordinance**

6 Ktown for All has standing to bring this lawsuit both on behalf of itself and on  
7 behalf of its members. Defendant’s Motion to Dismiss should be denied.

#### 8 **i. Ktown for All Has Adequately Alleged Frustration of Mission** 9 **and Diversion of Resources, Giving It Standing in its Own** 10 **Right**

11 The Supplemental Complaint specifically alleges facts that demonstrate  
12 frustration of mission and diversion of resources by Ktown for All. Supp. Complaint.  
13 ¶¶ 41-43. An organization has “direct standing to sue [when] it show[s] a drain on its  
14 resources from both a diversion of its resources and frustration of its mission.” *Fair*  
15 *Hous. Council of San Fernando Valley v. Roommate.com, LLC*, 666 F.3d 1216, 1219  
16 (9th Cir. 2012) (quoting *Fair Hous. of Marin v. Combs*, 285 F.3d 899, 905 (9th Cir.  
17 2002)); *see also* *Comite de Jornaleros de Redondo Beach v. City of Redondo Beach*,  
18 657 F.3d 936, 943 (9th Cir. 2011) (en banc); *Am. Diabetes Assoc. v. U.S. Dept. of the*  
19 *Army*, 938 F.3d 1147, 1154-55 (9th Cir. 2019) (compiling cases).

20 Ktown for All was founded to advocate for shelter and affordable housing in  
21 their neighborhood and to build connections between housed and unhoused neighbors,  
22 and this mission has been frustrated by the City’s enforcement of 56.11. In order to  
23 build connections and increase advocacy, Ktown for All conducts outreach and  
24 provides supplies to unhoused neighbors. The Supplemental Complaint alleges that  
25 several residents of the Koreatown neighborhood in Los Angeles have had their  
26 property seized due to the unconstitutional ordinance and unlawful practices detailed  
27 in the complaint. Supp. Complaint ¶¶ 27-30. The allegations also explain that these  
28 residents have had those necessities replaced by Ktown for All. *Id.* ¶ 166. Ktown for  
All usually spent these resources on advocacy efforts, but instead, has had to use its

1 scarce financial resources to replace “tents, blankets, and other items that were seized  
 2 and destroyed by the City.” *Id.* ¶ 41. The allegations in the Supplemental Complaint  
 3 also explain how the sweeps have forced Koreatown residents to relocate. *Id.* ¶¶ 166-  
 4 67. This constant relocation has disrupted Ktown for All’s ability to connect with their  
 5 neighbors. The loss of contact with its neighbors, and the decreased ability of  
 6 unhoused members to participate in advocacy efforts or to reside in the area, directly  
 7 frustrate Ktown for All’s mission and constitute an injury Ktown for All can only  
 8 avoid by sustaining a different injury: diverting resources. *Animal Legal Def. Fund v.*  
 9 *U.S. Dep’t of Agric.*, 223 F. Supp. 3d 1008, 1014 (C.D. Cal. 2016) (explaining that  
 10 “the frustration of an organization’s mission is the personalized injury that “forces” the  
 11 organization to spend money to alleviate the frustration.”).

12 The City incorrectly argues that for Ktown for All to sufficiently allege injury,  
 13 LAMC 56.11 enforcement must have “forced” the organization to divert its resources.  
 14 Def.’s Mot. (Dkt. 21) at 13. It is “not essential that an organization explicitly allege a  
 15 ‘forced’ diversion of its resources to sufficiently allege injury in fact.” *We Are Am.*,  
 16 809 F. Supp. 2d at 1096 (discussing how Ninth Circuit precedent does not impose  
 17 such a requirement). Ktown for All must only show that it would have suffered some  
 18 other injury if it had not diverted resources to counteract the problems caused by the  
 19 City’s enforcement of LAMC 56.11. “In *Havens [Realty Corp. v. Coleman]*, 455 U.S.  
 20 363 (1982)], for example, housing discrimination threatened to make it more difficult  
 21 for HOME to counsel people on where they might live if the organization didn’t spend  
 22 money fighting it,” leading the Court to conclude that HOME had organizational  
 23 standing. *La Asociacion de Trabajadores de Lake Forest v. City of Lake Forest*, 624  
 24 F.3d 1083, 1088 (9th Cir. 2010). Where Defendant’s “practices have perceptibly  
 25 impaired [the organizational plaintiff’s] ability to provide [the services it was formed  
 26 to provide] . . . there can be no question that the organization suffered injury in fact.”  
 27 *El Rescate Legal Servs., Inc. v. Exec. Office of Immigration Review*, 959 F.2d 742,  
 28 748 (9th Cir. 1991) (quoting *Havens*, 455 U.S. at 379).



1 Ktown for All sufficiently alleges that the enforcement of LAMC 56.11 impairs  
 2 the ability of unhoused members to participate in its advocacy, causes it to lose  
 3 contact with unhoused neighbors, and is causing Ktown for All to divert its resources  
 4 from advocacy for new housing for its unhoused members and neighbors to replacing  
 5 property and advocacy against property sweeps. Supp. Complaint ¶¶ 38-43; *see Smith*  
 6 *v. Pac. Props & Dev. Corp.*, 358 F.3d 1097, 1105 (9th Cir. 2004) (reversing dismissal  
 7 of complaint based on lack of standing where an organization alleged that “in order to  
 8 monitor the violations and educate the public regarding the discrimination, has had . . .  
 9 to divert its scarce resources from other efforts . . . to benefit the disabled community  
 10 in other ways”)); *Nat’l Council of La Raza v. Cegavske*, 800 F.3d 1032, 1040 (9th Cir.  
 11 2015) (explaining that National Council of La Raza, a group whose mission was  
 12 to conduct voter registration drives changed their behavior as a result of Defendant’s  
 13 conduct and had standing because “plaintiff NCLR expended additional  
 14 resources . . . on efforts to assist individuals with voter registration.”).

15 Defendant does not dispute that Ktown for All has adequately alleged that the  
 16 sweeps made it harder to build connections with unhoused individuals and to stay in  
 17 contact with its members and neighbors. Defendant instead argues that these injuries  
 18 are not cognizable and are not violations of a “legally protected interest.” Def’s Mot.  
 19 (Dkt. 21) at 12. But Ktown for All’s mission is to organize both housed and unhoused  
 20 people in support of additional housing in its neighborhood. Impairment of Ktown for  
 21 All’s mission to politically empower its members and unhoused neighbors is legally  
 22 protected. *See Smith*, 358 F.3d at 1105; *Nat’l Council of La Raza*, 800 F.3d at 1040.

23 In *National Council of La Raza*, for example, the State’s failure to offer the  
 24 opportunity to register to vote at the Department of Health and Human Services  
 25 impaired the organization’s ability to register its members to vote and forced it to  
 26 expend resources on voter registration drives. 800 F.3d at 1039-1040. Even though the  
 27 organization was already conducting these drives, it was required to expend additional  
 28 resources to conduct additional drives due to the State’s failures, which constituted an

1 injury in fact. *Id.* So too here. Ktown for All is attempting to advocate for additional  
 2 housing in Koreatown by organizing the community. Ktown for All has adequately  
 3 alleged that when unhoused people are forced to move out of fear of unlawful  
 4 property confiscations, it is hard for it to maintain contact with them. Supp. Complaint  
 5 ¶ 40. Just as organizational plaintiff in *National Council of La Raza* expended more  
 6 resources on additional voting drives, Ktown for All expends additional resources on  
 7 staying in touch with local unhoused people and providing more tents and blankets  
 8 that it would not have to spend but for the City's actions. *Id.*

9 Similarly, diversion of resources sufficiently constitutes an injury in fact when  
 10 an organization is forced to divert resources from advocacy on other matters to  
 11 advocacy on the violations at issue. *Smith*, 358 F.3d at 1105. In *Smith*, the court found  
 12 that the Disability Rights Advocacy Center had standing because it was forced to  
 13 monitor discrimination and educate the public about discrimination instead of using its  
 14 resources for other efforts that benefited the disabled community. *Id.* Here, Ktown for  
 15 All has been forced to divert its resources from advocating for additional housing to  
 16 replacing property and advocating against property sweeps that are harming its local  
 17 community. Supp. Complaint ¶ 41.

18 The cases Defendant relies upon arise in very different contexts. In *La*  
 19 *Asociacion de Trabajadores*, the violation occurred in a different county than the  
 20 association's regular work, and the court noted that the complaint only asserted  
 21 standing on behalf of the National Day Laborer Organizational Network's members;  
 22 "[n]owhere in the complaint, however, does NDLO assert a frustration of its purpose  
 23 or diversion of its resources." *La Asociacion de Trabajadores de Lake Forest*, 624  
 24 F.3d at 1089. There, as the organization had not actually pled organizational standing,  
 25 they could not cure it at the summary judgment stage. Here, Ktown for All has in fact  
 26 pled organizational standing based on violations in Koreatown that affect its efforts in  
 27 its local community.



1 In *Havens*, the Court granted organizational standing, finding that  
 2 discriminatory practices made it harder for the organization to counsel homeseekers.  
 3 455 U.S. at 379. The fact that HOME was attempting to refer community members to  
 4 find housing and that Havens had made the clients' lives harder through its unlawful  
 5 practices was enough. The Court did not find the need for any more specific or  
 6 "quantifiable" injury than a difficulty in counseling clients to find housing. *Id.*

7 The burdens HOME faced in *Havens* are virtually indistinguishable from the  
 8 burdens Ktown for All faces in this case. Ktown for All is attempting to provide water  
 9 and other necessities to unhoused community members, as well as to enlist their help  
 10 in advocating for housing. The fact that the unlawful practices make the lives of  
 11 unhoused people who are connected with Ktown for All harder and make it harder for  
 12 Ktown for All to provide necessities and outreach constitutes a frustration of mission  
 13 and a diversion of resources on the part of the organization. The City attempts to  
 14 distinguish *Havens* by stating that 804(d) creates an enforceable right to be safe from  
 15 discrimination, while 56.11 does not create an enforceable right to due process. Def's  
 16 Mot. (Dkt. 21) at 14. But the constitutional rights at issue here are enforceable rights;  
 17 there is no need for Congress or the City to pass a separate statute. Just as the  
 18 discrimination in *Havens* against people HOME served drained its resources, the  
 19 City's unconstitutional practices against Ktown for All's members and the unhoused  
 20 neighbors that it serves drain its resources.

21 Defendant also improperly relies on *Clapper*, where the Court found that there  
 22 had not yet been any injury because the respondent organizations could not tell  
 23 whether the Government was surveilling them or seeking to surveil them. As such, the  
 24 decision to take measures to counter the feared surveillance was not yet necessary.  
 25 *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 413 (2013). Here, there is no controversy  
 26 about what the City is doing; Ktown for All has alleged that the harms in the  
 27 complaint have already happened and are ongoing, and these are real harms imposed  
 28 on Ktown for All and its members. In fact, there is likely no dispute that the City

engages in property seizure and destruction in Koreatown and that the harms alleged in the complaint are attributable to the City. Rather, City workers identify themselves as such when seizing and destroying property in the area, and do so consistent with LAMC 56.11 and city policies, customs, and practices.

Finally, the City argues that the enforcement of the ordinance cannot divert the resources of Ktown for All because these practices were ongoing before the organization formed. No such temporal requirement exists in the law, and Defendant does not cite to any case that has relied on the date of formation of the organization.

**ii. Ktown for All Has Associational Standing on Behalf of its Members**

Ktown for All also challenges the City's policies and practices on behalf of its unhoused members who are subject to these policies and have lost belongings as a result. An organization has representative standing if "(a) its members would otherwise have standing to sue in their own right; (b) the interests it seeks to protect are germane to the organization's purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Associated Gen. Contractors of Cal., Inc. v. Coalition for Econ. Equity*, 950 F.2d 1401, 1406 (9th Cir. 1991) (quoting *Hunt v. Wash. State. Apple Adver. Comm'n.*, 432 U.S. 333, 343 (1977)).

First, Ktown for All has sufficiently alleged that its members are harmed by the City's unlawful practices. Defendant's argument that Ktown for All needs to identify specific members at this stage fails because such evidence is not required at this stage of the litigation. *Torres v. U.S. Dep't of Homeland Sec.*, No. 5:18-cv-2604-JGB-(SHKx), at \*12-13 (C.D. Cal. Oct. 24, 2019) (holding that organizational plaintiff was not required to name specific members at the pleading stage).

Second, the complaint alleges and explains that the unlawful practices make it more difficult for individual members to stay connected with the organization and

1 participate in advocacy. Supp. Complaint ¶ 40. The unlawful practices thus are related  
2 to Ktown for All's mission of connecting housed and unhoused neighbors.

3 Finally, Ktown for All is not seeking damages, but only injunctive and  
4 declaratory relief, since these are ongoing practices putting unhoused members at  
5 imminent risk of losing their belongings to unlawful seizures. Accordingly, and as  
6 discussed below, Ktown for All has sufficiently alleged standing on a representative  
7 basis as well. *Columbia Basin Apartment Ass'n v. City of Pasco*, 268 F.3d 791, 799  
8 (9th Cir. 2001); *see also Santiago v. City of Los Angeles*, No. CV 15-08444-BRO  
9 (EX), 2016 WL 7176694, at \*6 (C.D. Cal. Nov. 17, 2016) (holding organization had  
10 standing to challenge on the City's practices of seizing and immediately destroying  
11 street vendors' property on behalf of its members).

12 Under its analysis of the first prong of the three-prong test in *Hunt*, Defendant  
13 City contends that Ktown for All lacks associational standing because they have not  
14 identified by name individual members impacted by LAMC 56.11, citing *Associated*  
15 *Gen. Contractors of Am., San Diego Chapter, Inc. v. Cal. Dep't of Transp.*, 713 F.3d  
16 1187, 1194 (9th Cir. 2013). 432 U.S. at 343; Def's Mot. (Dkt. 21) at 16. But there, the  
17 Ninth Circuit held that at *summary judgment* a party must provide evidence of an  
18 identified member subject to the challenged practices. *Associated Gen. Contractors of*  
19 *Am.*, 713 F.3d at 1194. Another court in the Central District recently found that  
20 identification of specific members is not required at the pleading stage. *See Torres*,  
21 No. 5:18-cv-2604-JGB-(SHKx), at \*12, Order Denying Federal Def.'s Mot. to Dismiss  
22 (Dkt. 101, Oct. 24, 2019) at 12-13.

23 Here, the Supplemental Complaint alleges that Ktown for All members "who  
24 are unhoused have been subjected to the City's enforcement of LAMC 56.11 and have  
25 suffered harm as a result of that enforcement, including the loss of property and the  
26 deprivation of their constitutional and statutory rights." Supp. Complaint ¶ 42.  
27 "Unhoused members of Ktown for All have also had a difficult time participating in  
28 Ktown for All's advocacy efforts, because they have to spend time guarding their

1 belongings and replacing items that have been thrown away as a result of the City's  
 2 practices.” *Id.* ¶ 43. Nothing further is needed at this stage. *See Torres*, Case No. 5:18-  
 3 cv-2604 JGB (SHKx), Dkt. 101, at \*12-13.

4 Defendant also claims that Ktown for All must identify specific dates and  
 5 locations of incidents where Ktown for All members lost property. Again, such  
 6 specifics are not required at the motion to dismiss stage. *See id.* “When, as here, the  
 7 plaintiff[s] defend[ ] against a motion to dismiss at the pleading stage, ‘general factual  
 8 allegations of injury resulting from the defendant[s]’ conduct may suffice[.]’” *Oregon*  
 9 *v. Legal Servs. Corp.*, 552 F.3d 965, 969 (9th Cir. 2009) (quoting, *inter alia*,  
 10 *Lujan*, 504 U.S. at 561); *see also Smith*, 358 F.3d at 1106. Further, Plaintiffs are not  
 11 just challenging the seizure and destruction of individuals’ property, but are also  
 12 challenging the City’s policies and practices under LAMC 56.11, which does not  
 13 necessarily require individualized proof of property destruction. *See, e.g., Supp.*  
 14 *Complaint* ¶ 258; *see generally Monell v. Dep’t of Soc. Servs. of NY*, 436 U.S. 658,  
 15 713 (1978).

16 In its analysis of the second *Hunt* factor, Defendant mischaracterizes Ktown for  
 17 All’s stated mission as a “general interest in helping homeless residents in the City.”  
 18 Def’s Mot. (Dkt. 21) at 18. Defendant oddly cites to *Valley Forge Christian College v.*  
 19 *Ams. United for Separation of Church and State Inc.*, 454 U.S. 464, 475 (1982), a case  
 20 where the Court does not cite to *Hunt*, let alone discusses what the Court in *Hunt*  
 21 meant by this factor. Def’s Mot. (Dkt. 21) at 18. Ktown for All’s mission is to  
 22 explicitly advocate for housing and shelters in its community, to support unhoused  
 23 neighbors through the provision of food, water, and hygiene, and to build connections  
 24 between housed and unhoused neighbors. *See Supp. Complaint* ¶¶ 38-39. Ktown for  
 25 All has specifically laid out in the Supplemental Complaint how the enforcement of  
 26 LAMC 56.11 has made it difficult for Ktown for All to stay in contact with its  
 27 unhoused members and how individuals have been unable to attend advocacy  
 28 meetings due to their need to remain with their property and protect it from being

discarded. *See id.* ¶¶ 40-41; 43. Ktown for All has also had to divert resources away from advancing affordable housing production “to educating members about the policies and advocacy efforts to stop these unlawful practices” under LAMC 56.11. *Id.*

The Ninth Circuit has found organizational interests that were not any more specific than Ktown for All’s mission to satisfy this prong; nor has the Ninth Circuit read the germaneness requirement as strictly as Defendant would like this Court to do. *See, e.g., Airline Serv. Providers Ass’n v. Los Angeles World Airports*, 873 F.3d 1074, 1079 (9th Cir. 2017), *cert. denied*, 139 S. Ct. 2740 (2019) (holding that organizational interest “in the consistent enforcement of unitary federal regulation of airline industry labor relations” was germane to legal claim that the City’s contractual requirement was preempted by federal laws that regulate airlines); *WildEarth Guardians v. U.S. Dep’t of Agric.*, 795 F.3d 1148, 1154–55 (9th Cir. 2015) (“[I]t is clear that [WildEarth member]’s interest in recreational and aesthetic enjoyment of predators in the Nevada wilderness is related to WildEarth’s purposes of ‘protecting and restoring wildlife’ and ‘carnivore protection.’”). Defendant therefore cannot seriously argue that Ktown for All’s mission is not germane to the claims in this case challenging the constitutionality of LAMC 56.11.

Nor does the third *Hunt* factor weigh against Ktown for All because the claims asserted does not require participation of individual members in the lawsuit. Ktown for All is not seeking damages on behalf of its individual members, which would require individualized proof at the damages stage. *Compare United Union of Roofers v. Insurance Corp. of America*, 919 F.2d 1398, 1400 (9th Cir. 1990) (denying standing because “individual Union members will have to participate at the proof of damages stage”) with *Alaska Fish & Wildlife Fed’n v. Dunkle*, 829 F.2d 933, 938 (9th Cir. 1987) (allowing standing “because . . . its members need not participate directly in the litigation”); *see also Associated Gen. Contractors of Cal., Inc. v. Coal. for Econonmy Equity*, 950 F.2d 1401, 1408 (9th Cir. 1991) (“Because neither AGCC’s claims nor

1 their request for declaratory and injunctive relief require such individualized proof,  
 2 under this interpretation of *Hunt*'s third prong, the organization must be deemed to  
 3 have standing."); *Santiago*, 2016 WL 7176694 at \*6 (holding organization had  
 4 standing to challenge on the City's practices of seizing and immediately destroying  
 5 street vendors' property on behalf of its members without individual participation of  
 6 its members). Accordingly, Ktown for All has associational standing in this case.

7 Ktown for All has standing to request injunctive and declaratory relief because  
 8 Defendant regularly enforces LAMC 56.11 through both its rapid response teams and  
 9 noticed cleanups against members. *See* Supp. Complaint ¶¶ 42; 82-85. Starting in  
 10 October 2019, the City even increased funding for enforcement of LAMC 56.11. *Id.*  
 11 ¶¶ 87-89. Accordingly, the threatened injury to Ktown for All members is "certainly  
 12 impending," *Oregon Prescription Drug Monitoring Program v. U.S. Enf't Admin.*,  
 13 860 F.3d 1228, 1233 (9th Cir. 2017), and not, as Defendant suggests, a mere  
 14 possibility, Def's Mot. (Dkt. 21) at 19.

#### 15 **b. AREPS Has Municipal Taxpayer Standing**

16 Plaintiff AREPS has municipal taxpayer standing because Defendant City has  
 17 unlawfully spent municipal tax money on enforcing LAMC 56.11. Defendant argues  
 18 that AREPS lacks taxpayer standing, but in doing so, essentially obfuscates Supreme  
 19 Court precedent and ignores Ninth Circuit precedent on the subject of municipal  
 20 taxpayer standing. While the Supreme Court has held that, generally speaking,  
 21 payment of federal government taxes is "too remote . . . to give rise to a case or  
 22 controversy," *Arizona Christian School Tuition Org. v. Winn*, 563 U.S. 125, 134  
 23 (2011), "the Supreme Court and lower federal courts have long treated the payment of  
 24 local taxes differently, as the 'interest of a taxpayer of a municipality in the  
 25 application of its moneys is direct and immediate and the remedy by injunction to  
 26 prevent their misuse is not inappropriate.'" *Garris v. City of Los Angeles*, No. CV 17-  
 27 1452 MWF (EX), 2017 WL 10543666, at \*6 (C.D. Cal. Nov. 7, 2017) (quoting  
 28 *Doremus v. Bd. of Ed. of Borough of Hawthorne*, 342 U.S. 429, 433-34 (1952)).



1           The Ninth Circuit has made clear “that municipal taxpayer standing *simply*  
2 requires the ‘injury’ of an allegedly improper expenditure of municipal funds, and in  
3 this way mirrors our threshold for state taxpayer standing.” *Cammack v. Waihee*, 932  
4 F.2d 765, 770 (9th Cir. 1991) (emphasis added); *see also We Are Am.*, 809 F. Supp. 2d  
5 at 1096 (quoting the same with emphasis). “In fact,” the Ninth Circuit pointed  
6 out, “even those who have taken a dimmer view of the breadth of state taxpayer  
7 standing than this court have recognized that municipal taxpayer standing requires *no*  
8 *more injury than* an allegedly improper municipal expenditure.” *Id.* (citing cases); *see*  
9 *also Smith v. Jefferson Cty. Bd. of Sch. Comm’rs*, 641 F.3d 197, 213 (6th Cir. 2011)  
10 (observing that all sister circuits, including the 9th Circuit, that have cited pocketbook-  
11 injury language in *Doremus* “agree that the unconstitutional expenditure of  
12 government funds can itself be injury enough to confer municipal-taxpayer  
13 standing.”).

14           In *We are America*, the district court held that County taxpayers had sufficiently  
15 pled municipal taxpayer standing to bring a Section 1983 suit to challenge the  
16 constitutionality of an unlawful ordinance. 809 F. Supp. 2d. at 1104. Plaintiffs’ injury  
17 was based on use of taxpayer funds to arrest, detain, and incarcerate migrants pursuant  
18 to the ordinance, which they alleged was an illegal expenditure. *Id.* The court noted  
19 that “it is also readily apparent that these taxpayers are not alleging any specific  
20 monetary amount which the County has spent implementing the MMCP.” *Id.*  
21 Nonetheless, the court found municipal taxpayer standing because “improper  
22 expenditure of public funds’ is the crux of any claim that a municipal taxpayer  
23 satisfies the injury in fact prong of constitutional standing.” *Id.* at 1108 (citing  
24 *Cammack*, 932 F.2d at 770); *see also Barnes–Wallace v. City of San Diego*, 530 F.3d  
25 776, 786 (9th Cir. 2008) (“[M]unicipal taxpayers must show an expenditure of funds  
26 to have standing.”).

27           The Supplemental Complaint here alleges even more specific facts than those  
28 the court in *We are America* found sufficient at the motion to dismiss stage to

1 establish municipal taxpayer standing. Unlike the plaintiffs there, Plaintiffs here have  
 2 pled specific dollar amounts Defendant spends on enforcement of LAMC 56.11.  
 3 AREPS members Kristina Meshelski and James Parriott have alleged that they are  
 4 residents of the City of Los Angeles who pay municipal taxes into the general fund of  
 5 the City of Los Angeles. Supp. Complaint ¶¶ 44-46. They further allege that, in FY  
 6 2018-19, Defendant City “spent approximately \$10,692,104 [of tax dollars] to fund  
 7 rapid responses, including \$4.7 million to pay for the LAPD officers assigned to the  
 8 HOPE teams and \$5.22 million to fund [the] LA Sanitation” teams that conduct the  
 9 rapid responses. *Id.* ¶ 86. As the complaint alleges, the rapid response teams conduct  
 10 the Bulky Item pickups and seize and destroy unattended property. *Id.* ¶¶ 81-83.

11 The Supplemental Complaint also alleges the specific dollar amounts spent in  
 12 subsequent fiscal years. *Id.* ¶¶ 86-87. Accordingly, Plaintiffs have “allege[d] that the  
 13 government spent specific amounts of tax dollars on the challenged conduct,” *Cantrell*  
 14 *v. City of Long Beach*, 241 F.3d 674, 683 (9th Cir. 2001), and therefore satisfy the  
 15 injury-in-fact requirement for standing. *We are Am.* 809 F. Supp. 2d. at 1108; *Garris*,  
 16 2017 WL 10543666, at \*6 (“Despite the lack of any tangible invasion of their own  
 17 rights, the conduit through which these Plaintiffs have gained standing to challenge  
 18 the Ordinance is their payment of the administrative fees that the Department uses to  
 19 fund the housing inspection and enforcement program.”).

20 AREPS also meets the requirements for causation and redressability.  
 21 “Causation and redressability are essentially identical requirements where the remedy  
 22 is an order to desist.” *Cammack*, 932 F.2d at 771 (citing *Allen v. Wright*, 468 U.S.  
 23 737, 751 (1984)). Defendant seems to misrepresent Plaintiffs’ claims for relief in its  
 24 argument that AREPS claims are not redressable. Plaintiffs are not attempting to  
 25 enjoin the City from providing public health infrastructure and conducting cleanups in  
 26 a manner that does not violate Plaintiffs’ constitutional rights. What Plaintiffs are  
 27 seeking to enjoin is the enforcement of an unconstitutional statute. Moreover, the City  
 28 cannot argue that expenditure of funds would happen regardless of the unlawful



portions of LAMC 56.11. *See We are Am.*, 809 F. Supp. 2d at 1110 (holding that there is ‘no merit to defendants’ contention that the taxpayers have not adequately pled standing because any taxes spent in enforcing the MMCP are “merely incidental to their duty to enforce Arizona law[.]”). Thus, declaring LAMC 56.11 as unconstitutional and enjoining further enforcement of LAMC 56.11 would redress AREPS’s injury as taxpayers. *See id.* at 1111 (“[T]he municipal taxpayers’ alleged injuries will be redressed by a favorable decision herein, i.e. relief preventing the further implementation of [Maricopa County’s migrant arrest and detention policy] or a finding that the [policy] is unconstitutional”).

## V. CONCLUSION

For the reasons set forth above, Ktown for All and AREPS have Article III standing to pursue their claims in the Complaint. This Court should therefore deny Defendant’s Motion to Dismiss Ktown for All and AREPS for lack of subject matter jurisdiction.

Dated: November 12, 2019

Respectfully submitted,  
LEGAL AID FOUNDATION OF LOS ANGELES

/s/

By: Shayla Myers

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5  
6 Local Rule 5-4.3.4 Attestation

7  
8 I attest that Plaintiffs' counsel, Shayla Myers and Benjamin Allen Herbert, concurs in  
9 this filing's content and has authorized the filing.

10 DATED: November 12, 2019

SCHONBRUN SEPLOW HARRIS &  
HOFFMAN LLP

11 By: /s/ Catherine Sweetser  
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